



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

September 18, 2017

Received & Inspected

SEP 25 2017

FCC Mail Room

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Competitive Bidding Procedures and Certain Program Requirements
for the Connect America Fund Phase II Auction (Auction 903)
Docket Nos. 17-182, 10-90

DOCKET FILE COPY ORIGINAL

Dear Dortch:

Please find enclosed the Joint Comments of the Pennsylvania Public Utility Commission and the Pennsylvania Department of Community and Economic Development (collectively "Pennsylvania") in the above-captioned proceeding. The Public Notice was issued to initiate the pre-auction process for the CAF Phase II auction (Auction 903). The Pennsylvania Comments highlight how the requested relief of incorporating a negative weight to the existing auction formula as set forth in the PA PUC and the PA DCED Joint Petition for Reconsideration, Modification, or Waiver (Joint Petition) filed April 19, 2017, seamlessly fits into the FCC's proposed auction process in this docket.

Sincerely,

Bohdan R. Pankiw
Chief Counsel

No. of Copies rec'd
List ABCDE

041

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Competitive Bidding Procedures and Certain)	AU Docket No. 17-102	Received & Inspected
Program Requirements for the Connect)		
America Fund Phase II Auction (Auction 903))	WC Docket No. 10-90	SEP 25 2017

FCC Mail Room

**COMMENTS OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
AND THE
PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC
DEVELOPMENT**

On August 4, 2017, the Federal Communications Commission (Commission) issued the above-captioned Connect America Fund Phase II Auction Public Notice (*Public Notice*), in which it seeks comment on the proposed application and bidding procedures for the CAF Phase II auction (Auction 903). Scheduled to begin in 2018, the Commission will award up to \$198 million annually for ten years in Auction 903. Comments on the *Public Notice* are due September 18, 2017. Reply comments are due October 18, 2017.

Introduction and Summary

The Pennsylvania Public Utility Commission (PA PUC) and the Pennsylvania Department of Community and Economic Development (PA DCED) (jointly Pennsylvania) submit these comments in response to the *Public Notice*. As an initial matter, these comments should not be construed as binding on the PA PUC in any matter currently pending before it. Also, these comments could change in response to later events, including *ex parte* filings or the review of other filed comments and legal or regulatory developments at the state or federal level.

Auction 903 consists of three separate parts: (1) a pre-auction authentication and qualification process of the applicant-bidder via the submission, review and evaluation of a short-

form application; (2) the multi-round auction in which the Commission will score bids by, *inter alia*, applying weights associated with the applicant's selected performance tier and latency combinations and award Phase II funding to the winning bidder; and (3) a post-auction review of the winning bidder's qualifications to receive support via the evaluation and review of a long-form application.

In the first step, the short-form application, the Commission proposes to require each applicant to submit information that will assist it in determining whether an applicant is qualified to participate in the auction by (1) identifying the specific state(s) in which an applicant is eligible to bid prior to the commencement of the bidding; and, (2) requiring evidence that it can meet the service requirements associated with the performance tier and latency combinations for which it intends to bid in the auction.

Since an applicant will be required to identify the state(s) in which it intends to submit a bid prior to the auction itself, if an applicant submits a bid in the auction associated with any eligible census blocks in Pennsylvania where Verizon¹ declined its statewide commitment offer, the Commission should direct the applicant to identify in its short-form application any additional resources related to broadband deployment the applicant is eligible to receive through the Commonwealth of Pennsylvania. In this manner, any additional complementary resources an applicant will receive through Pennsylvania may be easily identified in the short-form application stage. In turn, Pennsylvania's proposed negative weight also can be readily identified, considered, and incorporated in the Commission's evaluation and subsequent scoring of bids.

¹ Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) (collectively Verizon).

Background

In the *Phase II Auction Order* released in May 2016, the Commission concluded that in Auction 903 it would accept bids for four performance tiers and at two latency levels.² Additionally, the Commission adopted a two-stage application filing process for the Phase II competitive bidding process but left the specific details of the auction to be developed as part of the pre-auction process.³ The two stages consisted of a pre-auction short-form application and a post-auction long-form application. In its short-form application, a potential bidder will establish its eligibility to participate in Auction 903. After the auction, upon receipt of a winning bidder's long-form application, Commission staff will conduct a more extensive review of the winning bidder's qualifications to receive Phase II annual support.

In its *Phase II Auction FNPRM Order* released in March 2017,⁴ the Commission finalized its Auction 903 rules, specifically adopting weights to apply to the performance tier and latency components within the auction formula. On April 19, 2017, the PA PUC and the PA DCED filed a Joint Petition for Reconsideration, Modification, or Waiver (Joint Petition) requesting the Commission to reconsider, modify, or waive its decision in the *Phase II Auction FNPRM Order* by also providing in the then newly-finalized CAF Phase II auction formula a negative weight reflective of Pennsylvania-enhanced bids. Specifically, the negative weight would recognize the award by Pennsylvania of additional resources harnessed by the Commonwealth and made available to applicants pursuing CAF Phase II auction support for broadband deployment in Verizon-declined census blocks in Pennsylvania.

² See *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5956-63, paras. 14-37 (2016) (*Phase II Auction Order*).

³ *Id.*, 31 FCC Rcd at 5980, para. 92.

⁴ *Connect America Fund et al.*, Report and Order and Order on Reconsideration, 32 FCC Rcd 1624 (2017) (*Phase II Auction FNPRM Order*).

In the current *Public Notice*, the Commission seeks comment on the proposed application and bidding procedures for the auction, including how interested parties can qualify to participate in the auction, how bidders will submit their bids, and how the Commission will process bids to determine the winners and support amounts. The Commission seeks comment on the information that should be required to be incorporated into the short-form application in order to determine each applicant's eligibility to bid for the performance tier and latency combinations it has selected.

In these comments, the PA PUC and PA DCED propose that applicants be required to provide one additional piece of information in the short-form application to incorporate the Pennsylvania proposal into the Commission's proposed Auction 903 process and facilitate the Commission's eventual scoring and award of winning bids.

Discussion

A. Pre-Auction Short-Form Application

The Commission's proposed Phase II short-form application rules provide for the collection of information the Commission may require to evaluate an applicant's qualifications to participate in Auction 903 and that will assist the Commission in determining whether the applicant meets basic qualifications for participation in the bidding process. Such information will also enable Commission staff to ensure compliance with rules and bidding restrictions that help protect the integrity of the auction.⁵

Pursuant to its proposed rules for Auction 903, each applicant must indicate in its short-form application the state(s) in which it intends to bid for support and the performance tier and latency combinations for which it intends to bid for the unclaimed CAF II support, including the

⁵ See *id.*, 32 FCC Rcd 1624, 47 CFR §§ 54.315(a), (b)(viii).

technologies it intends to deploy. Additionally, the Commission proposes rules that will require each applicant seeking to participate in Auction 903 to provide in its short-form application, among other things, basic ownership information, certifications regarding its qualifications to receive support, and information regarding its operational and financial capabilities.⁶ The short-form application information will also assist the Commission in determining whether an applicant has established its eligibility for the weights associated with the applicant's selected performance tier and latency combinations.⁷ Upon the conclusion of the multi-round auction and after a winning bidder is selected, the Commission proposes that the winning bidder submit a long-form application so that Commission staff may conduct a more extensive review of the winning bidder's qualifications to receive support.

Consistent with its practice in the Mobility Fund I auction and its spectrum auctions, the Commission proposes to require each applicant to identify in its short-form application the state(s) in which it intends to bid for support.⁸ The applicant will be able to place bids for eligible areas only in the states identified in its application.⁹

Pennsylvania asserts that the requirement that an applicant identify in its short-form application the state(s) in which it intends to bid perfectly aligns with Pennsylvania's proposal in its Joint Petition that the Commission modify the auction formula to apply a negative weight to all competitive bids in Pennsylvania where the applicant-bidder is eligible to receive additional broadband deployment resources through the Commonwealth of Pennsylvania. The Commission should direct an applicant submitting a pre-auction short-form application to include in its

⁶ See generally *id.*, 32 FCC Rcd 1624, 47 CFR § 54.315.

⁷ *Id.*, 32 FCC Rcd 1624, 47 CFR § 54.315(a)(5).

⁸ See *Public Notice* at para. 19.

⁹ *Id.*

application whether it has received any additional resources through the state for broadband deployment. The addition of a simple “check box” for this query in the short-form application proposed by the Commission is all that is necessary. *See* Commission-proposed Appendix A, as revised, attached to these comments.

Pennsylvania’s proposed modification to the auction formula seamlessly fits into the Commission’s auction formula because the weights associated with an applicant’s bid are not actually applied to the competitive bid until the applicant has timely submitted a completed short-form application that cleared the Commission’s pre-auction review process to determine the applicant’s Auction 903 eligibility. In turn, if the applicant has provided affirmative information in response to proposed question number 8 in Appendix A, then during the multi-round scoring process proposed in the *Public Notice*,¹⁰ the Commission may readily apply the Pennsylvania-specific negative weight in addition to the weights associated with the applicant’s selected performance tier and latency combination to reflect additional resources harnessed through the state to any bid to deploy broadband in Pennsylvania’s Verizon-declined census blocks.

Pennsylvania’s proposal does not complicate or interfere with the Commission’s auction format or the existing evaluation whether an applicant can meet the service requirements proposed in the applicant’s short-form application. Further, since an applicant will have already identified in its short-form application that it is placing a bid for eligible census blocks in Pennsylvania, the addition of the Pennsylvania-specific check box assures enhanced efficiency to Auction 903.

¹⁰ *See Public Notice* at paras. 76-78.

The Pennsylvania Public Utility Commission and the Pennsylvania Department of Community and Economic Development submit that their comments continue to further the Commission's goal that Auction 903 be effective, efficient, and fair. We appreciate the opportunity provided by the Commission for the submission of these comments.

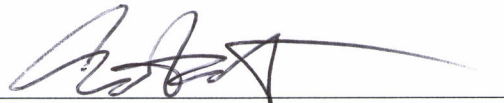
Respectfully submitted,



Bohdan R. Pankiw
Chief Counsel
Pennsylvania Public Utility Commission

Commonwealth Keystone Building
400 North Street, 3rd Floor
Harrisburg, PA 17120-3265

Phone: 717-787-5000



Christopher C. Houston
Chief Counsel
Department of Community and Economic
Development

Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Phone: 717-720-7328

DATE: September 18, 2017

APPENDIX A

Proposed Auction 903 Short-Form Application Operational Questions

Has the applicant previously deployed consumer broadband networks (Yes/No)? If so, identify the date range for when broadband service was offered and in which state(s) service was offered. What specific last mile and interconnection (backhaul) technologies were used? How many subscribers were served? What services (e.g., voice, video, broadband Internet access) were provided?

Answer for each state the applicant selected in its application:

1. Which network architectures and technologies will be used in the applicant's proposed deployment? How will voice services be provided? How will broadband Internet access service be provided?
2. What are the relevant industry standards for the last-mile technologies in the applicant's proposed deployment? What features of this technology and proposed network will enable performance tier, latency and voice service requirements to be met?
3. Can the applicant demonstrate that the technology and the engineering design will fully support the proposed performance tier, latency and voice service requirements for the requisite number of locations during peak periods (Yes/No)? What assumptions about subscription rate and peak period data usage is the applicant making in this assertion? List the information that can be made available to support this assertion.
4. Can the applicant demonstrate that all the network buildout requirements to achieve all service milestones can be met (Yes/No)? Describe the information that the applicant can make available in a project plan to support this assertion.
5. For the proposed performance tier, latency and voice service, can the applicant demonstrate that potential vendors, integrators and other partners are able to provide commercially available and fully compatible network equipment, interconnection, last mile technology and customer premise equipment (CPE) at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? Describe the information and sources of such information that the applicant could make available to support this response.
6. Can the applicant describe how the network will be maintained and services provisioned (Yes/No)? Can the applicant demonstrate that it can provide internally-developed operations systems for provisioning and maintaining the proposed network including equipment and segments, interconnections, CPE and customer services at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? If not, can the applicant demonstrate that potential vendors, integrators, and other partners are able to provide commercially available and fully compatible operations systems and tools for provisioning and maintaining the proposed network at cost consistent with applicant's buildout budget and in time to meet service milestones (Yes/No)? Describe the information and sources of such information that the applicant could make available to support these responses.
7. If the applicant is using satellite technologies, describe the total satellite capacity available and possible methods the applicant will utilize to assign bandwidth and capacity for each spot beam.

8. If the applicant has submitted a bid for an eligible census block where Verizon Pennsylvania LLC or Verizon North LLC declined the offer for CAF Phase II annual statewide commitment support, is the applicant eligible to receive additional broadband deployment resources through the Commonwealth of Pennsylvania.

☐ Y If yes, amount of resources. \$ _____

☐ N